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Before the
Federal Communications Commission
Washington, D.C. 20554

NOV 24 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Amendment of Section 73.202(b)) MM Docket No. 92-195
Table of Allotments) RM-7146
FM Broadcast Stations)
(Beverly Hills, Florida))

To: The Chief, Allocations Branch

**WAIVER OF ORDER TO SHOW CAUSE
BY
WHITE CONSTRUCTION, CO., INC.**

White Construction Co., Inc. ("White"), licensee of Station WLQH-FM, Channel 247A, Chiefland, Florida, hereby waives its right to an Order to Show Cause which would otherwise be required by counterproposals advanced by Sarasota-FM, Inc. ("SFI") and Gator Broadcasting Corporation ("Gator") in this matter on October 30, 1992. This waiver is submitted subject to one condition and is further respectfully submitted under protest, for the reasons described herein.

In their comments, SFI and Gator advanced three alternative counterproposals, each of which would require that WLQH-FM change from Channel 247A to Channel 300A. Submitted with the SFI/Gator comments was a technical exhibit which purports to demonstrate that the existing WLQH transmitter site is fully spaced to all proposed allotments and that this change may be effected without any move of the WLQH-FM transmitter site. White's waiver of its right to show cause why the Chiefland channel should not be changed is specifically conditioned upon requiring no relocation of the existing transmitter site of WLQH-FM, nor any adverse change in the technical

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parameters of WLQH-FM's transmissions other than the change of frequency. White is sensitive to this matter, as a prior, rejected rule making proposal would have forced it to upgrade WLQH-FM to a higher class of channel which, due to a severe site restriction, would have resulted in a relocation to an unpopulated area far from its area of meaningful service.

White respectfully notes that it has consented to waive its rights, subject to the above condition, in order to facilitate resolution of this proceeding. As outlined below, White certainly does not want to incur the substantial expense and disruption which it fears will result from the proposed change of channel. Nonetheless, as WLQH-FM has been operating for less than a year, and has yet to attract a significant listenership, White believes that the severity of a disruptive effect of shutting down and then recommencing operations at a different dial position will only increase over time. Therefore, if the WLQH-FM channel must be changed, it would be best to do so as soon as possible.

WLQH is also concerned over the financial losses it may incur as a result of the modification of its facility, notwithstanding Gator's representation at paragraph 16 of the SFI/Gator comments that it would honor its obligation to reimburse White for reasonable expenses incurred in making the substitution. White's engineer estimates that technical expenses alone are likely to exceed \$40,000, including the purchase and installation of a new antenna. White has inquired as to whether the company which would be expected to perform this work would be willing to look to Gator directly for

payment but, for reasons which need not be detailed herein, the company indicated that it would refuse to perform the work on that basis and would require payment directly from White. White fears that it will have substantial difficulty in obtaining reimbursement from Gator, and that it will have to resort to the delay and added expense of legal process.

Unfortunately, that is a burden which White is not in a position to undertake at this time. It should be recalled that neither White nor any other party sought allotment of the Chiefland channel, but rather it was added to the community by an apparently well-intentioned Commission on its own initiative as a result of Dockets 80-90 and 84-231. As the licensee of AM daytime station WLQH, Chiefland, for two decades, White was forced to apply for the channel as a defensive measure, as it could not possibly compete as a stand-alone daytime AM against new FM competition. Following designation for hearing, White emerged with the Chiefland permit, but only after it had to incur the additional expense of buying out both of its opponents, neither of whom was local or had any previous record of service to the Chiefland community. Ultimately, WLQH-FM was constructed and began operation, but has had difficulty in attracting substantial listenership.


White respectfully submits that throughout the past several years it has done everything the Commission expected of it while struggling to meet the unexpected and undesired expense of constructing a second (and superfluous) station in its community. Therefore, White respectfully protests the unfairness of being required

to incur yet additional expense and disruption with respect to this facility.

White has discussed with undersigned counsel the likelihood of success should it attempt to show cause why its license should not be modified to specify operation on Channel 300. White has been advised that, in the absence of engineering concerns, it is highly unlikely that the Commission would afford it any relief. Therefore, in keeping with its past cooperative attitude and performance, White will not insist upon the exercise of attempting to show cause why its channel should not be modified, and will accede under protest to a change of the channel for WLQH-FM from 247A to 300A, provided that its site remain unchanged and all other technical parameters of its operation not be adversely affected.

Respectfully submitted,
WHITE CONSTRUCTION CO., INC.

By


Peter Gutmann
Its Attorney

PEPPER & CORAZZINI
1776 K Street, N.W., Suite 200
Washington, D.C. 20006
(202) 296-0600

November 24, 1992

CERTIFICATE OF SERVICE

I, Veronica Pierce, a secretary in the law firm of Pepper & Corazzini, do hereby certify that I have on this 24th day of November, 1992 served copies of the foregoing "Waiver of Order to Show Cause by White Construction, Co., Inc." by U.S. Mail, postage prepaid on the following:

* Robert K. Hayne, Esq.
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8337
Washington, D.C. 20554

Dennis F. Begley, Esq.
Matthew M. McCormick, Esq.
Reddy, Begley & Martin
1001 22nd Street, N.W., Suite 350
Washington, D.C. 20037
(Counsel for Pasco Pinellas Broadcasting Co.)

A. Wray Fitch, III, Esq.
Gammon & Grange
1925 K Street, N.W., Suite 300
Washington, D.C. 20006
(Counsel for Heart of Citrus, Inc.)

Michael H. Bader, Esq.
Theodore D. Kramer, Esq.
David G. O'Neil, Esq.
Haley Bader & Potts
2000 M Street, N.W., Suite 600
Washington, D.C. 20036
(Counsel for Sarasota-FM, Inc.)

David D. Oxenford, Jr., Esq.
Fisher Wayland Cooper & Leader
1255 23rd Street, N.W., Suite 800
Washington, D.C. 20037
(Counsel for Gator Broadcasting Corporation)



Veronica Pierce

* Hand Delivery